



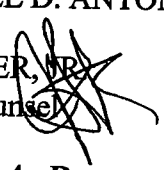
COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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July 22, 2004

TO: SUPERVISOR DON KNABE, Chairman
SUPERVISOR GLORIA MOLINA
SUPERVISOR YVONNE BRATHWAITE BURKE
SUPERVISOR ZEV YAROSLAVSKY
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: RAYMOND G. FORTNER, 
Chief Deputy County Counsel

RE: **Ordinance Adding Title 4 - Revenue and Finance, Chapter
4.69 - Los Angeles County Transactions and Use Tax**

Enclosed for your reference is a final version of the 1/2-cent sales tax ordinance approved by your Board at your meeting of July 20, 2004. This document incorporates all revisions ordered by your Board at the meeting. It will be placed on the ballot for the November 2, 2004 general election, and will become effective only upon approval by a two-thirds vote.

RGF:TMT:jb

Enclosure

c: David E. Janssen
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer
Board of Supervisors



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July 22, 2004

Violet Varona-Lukens, Executive Officer
Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

**Re: Ordinance Adding Title 4 - Revenue and Finance, Chapter
4.69 - Los Angeles County Transactions and Use Tax**

Dear Ms. Varona-Lukens:

Enclosed for your reference is a final version of the 1/2-cent sales tax ordinance approved by the Board at its meeting of July 20, 2004. This document incorporates all revisions ordered by the Board at the meeting. It is to be placed on the ballot for the November 2, 2004 general election, and will become effective only upon approval by a two-thirds vote.

A copy of the ordinance and the approving resolution must be transmitted to the Registrar-Recorder immediately.

Very truly yours,

OFFICE OF THE COUNTY COUNSEL

By

THOMAS M. TYRRELL
Principal Deputy County Counsel
Special Services Division

TMT:jb


Enclosure

HOA.248586.2

ANALYSIS

This ordinance establishes Chapter 4.69 of the Los Angeles County Code to propose a 1/2 cent Los Angeles County Transactions and Use Tax, that becomes effective only after approval by two-thirds of the qualified voters in the County voting in an election on the issue. The proceeds of the tax are designated for public safety services, local anti-terrorism efforts, and homeland security. The Board of Supervisors may, by a two-thirds vote of all members, and following the procedure set out in the ordinance, suspend the levy of this tax any time following the 2012-2013 fiscal year to take effect no sooner than three years after the Board's action.

OFFICE OF THE COUNTY COUNSEL

By: 
THOMAS M. TYRRELL
Principal Deputy County Counsel
Special Services Division

TMT:er

(Date Requested : 6/15/04)

ORDINANCE NO. _____

An ordinance amending Title 4 - Revenue and Finance of the Los Angeles County Code, by adding Chapter 4.69 to the Los Angeles County Code, Title 4 – Revenue and Finance.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. This Act shall be known as "The Public Safety and Homeland Security Tax Act."

SECTION 2. Purpose and Intent: The People of the County of Los Angeles find and declare that:

- (A) Public safety and homeland security services are critically important to the security and well-being of the County's citizens and to the growth and revitalization of the County's economic base.
- (B) The protection of the public safety and homeland security (sometimes referred to collectively below as "public safety") is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.
- (C) In order to assist local governments in maintaining a sufficient level of public safety services, the proceeds of this Public Safety and Homeland Security Tax Act shall be designated exclusively to maintain, improve, or expand funding of local law enforcement and youth and adult programs that prevent crime all as provided in the

Act. Local financial resources to the Sheriff and City law enforcement agencies shall not be reduced below the adopted budget for the 2003/04 fiscal year. The adopted budget for the 2003/04 fiscal year may be adjusted to reflect reduced expenditures necessitated by reductions in state and federal assistance, or reductions in any other revenue source beyond the control of that local government entity. The County shall not take such action without a two-thirds vote of the Board of Supervisors.

- (D) If a loss or reduction in revenue, including state and federal assistance, or reductions in any other revenue source beyond the control of that local government entity occurs, proceeds from this Ordinance may be used to ensure public safety funding is not reduced below the adopted budget for the 2003/04 fiscal year as adjusted, only if local financial resources to public safety are not reduced more than the total percent of the loss or reduction within the affected year. Except as prescribed, Public Safety and Homeland Security Tax Act revenues received by the County or a City may not be utilized to meet the maintenance-of-effort requirements of the Act.

SECTION 3. Chapter 4.69 is hereby added to read as follows:

Chapter 4.69

THE PUBLIC SAFETY AND HOMELAND SECURITY TAX ACT

- 4.69.010 The Public Safety and Homeland Security Tax Act.
- 4.69.020 Imposition of Retail Transactions Tax.
- 4.69.030 Imposition of use tax.
- 4.69.040 Definitions.
- 4.69.050 Expenditure Plan for the Use of Revenues Received from
Imposition of the Transactions and Use Tax.
- 4.69.060 Application of Sales and Use Tax Provisions of Revenue and
Taxation Code.
- 4.69.070 Adoption of Revenue and Taxation Code Sections 7261 and 7262.
- 4.69.080 Place of Consummation of Retail Transaction.
- 4.69.090 Accountability Measures.
- 4.69.100 Amendment.
- 4.69.110 Severability.
- 4.69.120 Effective and Operative Dates.

4.69.010. The Public Safety and Homeland Security Tax Act.

The ordinance codified in this Chapter shall be known as "The Public Safety and Homeland Security Tax Act."

4.69.020. Imposition of Retail Transactions Tax.

There is hereby imposed a tax for the privilege of selling tangible personal property at retail upon every retailer in the County at a rate of one-half of one percent of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the County. This is in addition to previously imposed transactions and use taxes.

4.69.030. Imposition of Use Tax.

There is hereby imposed a complementary tax upon the storage, use or other consumption in the County of tangible personal property purchased from any retailer for storage, use or other consumption in the County. Such tax shall be at a rate of one-half of one percent of the sales price of the property whose storage, use or other consumption is subject to the tax. This is in addition to previously approved use taxes.

4.69.040. Definitions.

The following words, whenever used in the Ordinance, shall have the meaning as set forth below:

- (A) "County" means the County of Los Angeles, and for purposes of the application of the tax imposed by this Act, means its incorporated and unincorporated territory.

- (B) "City" means any charter or general law city within the County of Los Angeles.
- (C) "Countywide Interoperability System" means a system to provide for effective communications between public safety agencies in the County of Los Angeles and the ongoing maintenance of the system.
- (D) "Public Safety and Homeland Security Purposes," are as defined in section 4.69.050.
- (E) "Transaction" or "Transactions" have the same meaning, respectively, as the words "Sale" or "Sales"; and the word "Transactor" has the same meaning as "Seller," or "Sale" or "Sales" and "Seller" are used in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
- (F) "Population" means the most recent annual estimate of population published by the California State Department of Finance, or for a newly incorporated City, the County Auditor/Controller's best estimate, until that newly incorporated City's population is included in the Department of Finance publication.
- (G) "Adopted Budget" for the County means the budget submitted to the State in November of each fiscal year and is used to determine the amount of combined public safety services funding each fiscal year. "Adopted Budget" for a City means the budget adopted at a public meeting by its respective governing body at the end of the City's normal budget cycle,

but no later than September 30.

- (H) "Base year" means for the County or City, the adopted budget for each entity for fiscal year 2003/04.
- (I) "Local Financial Resources" means local general fund appropriations for the Sheriff and City law enforcement agencies less exclusions.
Exclusions only apply if they are related to a jurisdiction's defined public safety services by the governing body of the County or City (See 4.69.050 (C) Maintenance of Effort for exclusions).
- (J) "Nonparticipating Entity" is a City or county that elects not to be bound by the maintenance-of-effort, certification and accountability measures provided for in this chapter.

4.69.050 Expenditure Plan for the Use of Revenues Received from the Imposition of the Transactions and Use Tax.

The revenues raised from the imposition of the transactions and use tax shall be used for Public Safety and Homeland Security Purposes, as follows:

- (A) Purpose of the Tax.

The revenues raised by this measure will be used to provide sworn and support personnel, equipment and facilities to increase, maintain, improve, expand and strengthen law enforcement, public safety, youth and adult crime prevention programs, homeland security, local anti-terrorism efforts, and emergency response and will be used to:

1. Manage emergency/disaster operations, including community

awareness, and "first response" capabilities to extraordinary emergencies.

2. Improve crime investigations and basic public safety services by increasing resources for traditional law enforcement services.
3. Expand community-oriented policing services.
4. Expand the role of local law enforcement to include intelligence gathering and manage local anti-terrorism efforts.
5. Manage emergency response and related training/preparedness by inter-agency coordination and standardized training for public safety services and "first response" capabilities (i.e., Emergency Operations Center/Terrorism Early Warning).
6. Provide youth and adult programs that prevent crime as limited by Section 4.69.050 (B) (2) (g).
7. Provide communications and specialized equipment for communications capability and interoperability among public safety agencies throughout the County.
8. Provide for expanded justice-related resources necessary to respond to increased arrests resulting from enhanced police services.

(B) Allocation of Revenues.

Except for revenues received in fiscal year 2004-05, the Auditor-Controller's calculation and apportionment to the County and each City

shall be made monthly beginning October 20 of each fiscal year based upon a maintenance-of-effort certification form submitted by the public agency requesting an apportionment. The maintenance-of-effort certification form shall be submitted by October 1 of the fiscal year, and shall both describe the agency's budgeted use of the revenues derived by this levy, and demonstrate that the amounts budgeted for public safety surpass by at least the amount of apportioned revenue received by way of this tax, the funds previously budgeted for public safety purposes as adjusted pursuant to subdivision C of this section. The Auditor-Controller shall suspend distribution of funds to any entity that does not file the maintenance-of-effort certification form. Funds for which distribution is suspended shall not be disbursed until the next regular distribution following receipt of satisfactory certification. For fiscal year 2004-05 the County and each City shall certify the amount budgeted for public safety purposes in the previous fiscal year and the Auditor-Controller shall distribute funds monthly as prescribed in this chapter.

1. First, from the funds allocated to the County by the State Board of Equalization, the Auditor-Controller shall be reimbursed for actual and necessary direct and indirect costs incurred while complying with this Ordinance. Actual and necessary direct and indirect costs shall be those from the prior fiscal year.
2. Of the remaining funds:

- a. An annual allocation to provide for and maintain a countywide interoperability system of up to two percent (2%). The Board of Supervisors shall, by September 30 of each year, determine the percentage adjustment, up to 2%, for interoperability.
- b. Nine percent (9%) shall be allocated for services for Sheriff's custody operations.
- c. Six percent (6%) shall be allocated for other County law enforcement and justice related purposes, including prosecution and defense costs and probation services.
- d. All funds allocated to the County, including the 2% for interoperability, the 9% for Sheriff's custody operations, the 6% for other County law enforcement related purposes, and the funds allocated for the County unincorporated area, will be appropriated by the County Board of Supervisors, as part of the annual County budget, in accordance with the terms of the Ordinance.
- e. After the allocations pursuant to a through d, the remaining funds shall be distributed to the County and each City within Los Angeles County, as follows: the lesser of the minimum allocation of \$500,000 plus a distribution of the remaining balance based on population percentage or one hundred percent of the City's or County's total public safety budget for the fiscal year preceding the year in which the allocation is made. The population shall be

determined by the Auditor-Controller based upon data received from the State Department of Finance. In no event shall the total amount allocated to a City or County (i.e., the sum of the minimum allocation and the allocation based upon population) exceed the City's or County's total public safety budget for the fiscal year preceding the year in which the allocation is made. Effective fiscal year 2006-07, the minimum allocation of \$500,000 shall be adjusted annually based on the increase or decrease in the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index for the Los Angeles-Riverside-Orange County Area (CPI) for the most recently published percentage change for the 12-month period for the preceding fiscal year, however, the annual adjustment shall not exceed three percent (3%).

f. Prior to appropriation by the Board, the Sheriff shall provide annually for Board approval of a proposed methodology as well as program detail related to the unincorporated allocation that takes into consideration such factors as population, response time or crime rates. In the event that during the year the Sheriff is required to shift unincorporated resources provided in his budget because of criminal activity or other factors, the Sheriff will inform the Board of such action as soon as possible.

g. At its sole discretion, each City may use up to 15 percent of

its allocation for youth and adult programs to prevent crime. At its sole discretion the County may use up to 15 percent of its unincorporated area allocation under subsection (B) (2) (e) for youth and adult crime prevention programs. Such funds shall also be allocated in accordance with factors reflecting the overall need of the unincorporated area.

(C) Maintenance-of-Effort.

1. In order to assist local governments in maintaining a sufficient level of public safety and homeland security services, the proceeds of this chapter shall be designated exclusively for the purposes specified in section 4.69.050. Local financial resources to the Sheriff and City law enforcement agencies shall not be reduced below the adopted budget for the 2003/04 fiscal year as adjusted. Beginning in fiscal year 2006-07, the minimum maintenance-of-effort requirement shall be adjusted annually. For fiscal year 2006-07 only, the minimum maintenance-of-effort requirement shall be increased or decreased in accordance with the difference between the actual amount of Public Safety and Homeland Security Act funds allocated to the Sheriff or local law enforcement agency for fiscal year 2005-06 and the estimated allocation for fiscal year 2006-07 but in no event shall it be less than the minimum maintenance-of-effort requirement in the fiscal year 2003-04 base

year. Beginning in fiscal year 2007-08 and each fiscal year thereafter, the minimum maintenance-of-effort requirement shall be increased or decreased annually based on the change in the amount allocated to the Sheriff or local law enforcement agency from the Public Safety and Homeland Security Act Fund in the immediately preceding fiscal year and the corresponding amount allocated to the local agency in the next preceding fiscal year but in no event shall it be less than the minimum maintenance-of-effort requirement in the fiscal year 2003-04 base year.

2. The adopted budget for the 2003/04 fiscal year as adjusted may be adjusted to reflect reduced expenditures necessitated by reductions in state and federal assistance, or reductions in any other revenue source beyond the control of that local government entity. The County shall not take such action without a two-thirds vote of the Board of Supervisors.
3. The adopted budget for the 2003/04 fiscal year shall be adjusted for revenue exclusions. For each exclusion category, only those amounts that were appropriated for public safety services in the respective year's adopted budget are excludable. This applies to the "base year" and any subsequent year. Appropriations funded by the following budgeted revenues must be excluded:
 - a. Grant funds received by the County or City from any source.

- b. Asset forfeiture revenues received by the County and City.
- c. Revenues budgeted including revenues from capital leases by the County or City for capital outlay expenditures, which include any debt service payments or fixed asset purchase.
- d. Revenues budgeted for providing public safety services under contract to another jurisdiction.
- e. Revenues budgeted in the current fiscal year as a result of a change of organization or reorganization that became effective pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 subsequent to the “base year”.
- f. Revenues budgeted by the County or City pursuant to Chapter 3 of Part 6 of Division 3 of Title 2, or any other reimbursement by the State for homicide trial costs, including, but not limited to, Chapter 1649 of the Statutes of 1990 and its successors.
- g. Revenues budgeted from any source by the County or City to respond to a state of emergency declared by the Governor pursuant to the California Emergency Services Act.
- h. Appropriations by the County or City, for one-time expenditures related to public safety services. One-time expenditures mean material non-recurring expenditures.
- i. Budgeted appropriations must be adjusted upwards for cost

savings (actuarial savings, reduced costs for pension obligations due to the issuance of pension bonds) in appropriations for retirement and workers' compensation costs that do not result in a change in benefit levels.

4. If a loss or reduction in revenue including state and federal assistance, or reductions in any other revenue source beyond the control of that local government entity occurs, proceeds from this Ordinance may be used to ensure public safety funding is not reduced below the adopted budget for the 2003/04 fiscal year as adjusted, only if local financial resources to public safety are not reduced more than the total percent of the loss or reduction within the affected year. Except as prescribed, Public Safety and Homeland Security Tax Act revenues received by the County or a City may not be utilized to meet the maintenance-of-effort requirements of the Act.

(D) Unspent Funds.

Any unspent proceeds from this Ordinance by the County, or a City, within a fiscal year, shall be held in a public safety reserve trust account established by that entity. Each entity shall annually determine the amount of unspent funds from the prior year to be appropriated for the purposes specified in Section 4.69.050(A).

- (E) The allocation to the County or a City in any fiscal year shall be reduced if

the amount of funding for public safety services for that entity is less than the 2003/04 adopted budget amount, adjusted as required by Section 4.69.050 (C). The reduction shall be the difference between the amount funded and the adjusted base year maintenance-of-effort requirement. Nonparticipating entities shall not receive funding. Funds otherwise allocable to a nonparticipating entity, funds from a reduction in allocation because of an entity's failure to meet the base year requirement, funds otherwise allocable pursuant to the requirements of Section 4.69.050 (B) (2) (e), and funds unspent more than five years after their allocation will be returned to the pool for redistribution as prescribed in this chapter, and may, as necessary, be deducted by offset against an entity's current-year allocation.

4.69.060. Application of Sales and Use Tax Provisions of Revenue and Taxation Code.

The provisions contained in Part 1 of Division 2 of the Revenue and Taxation Code (Sales and Use Taxes, commencing with Section 6001), insofar as they relate to sales or use taxes and are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code (Transactions and Use Taxes), commencing with Section 7251, and all amendments thereto shall apply and be part of this Ordinance, being incorporated by reference herein.

Pursuant to the provision of Revenue and Taxation Code Section 7270, the County shall contract with the California State Board of Equalization to perform all

functions incident to the administration and operation of the ordinance.

4.69.070. Adoption of Revenue and Taxation Code Sections 7261 and 7262.

Pursuant to the provision of Revenue and Taxation Code Section 7262.2, the required provisions of Sections 7261 and 7262 of that Code as now in effect or as later amended are adopted by reference in this Ordinance.

4.69.080. Place of Consummation of Retail Transaction.

For the purpose of a retail transaction tax imposed by this Ordinance, all retail transactions are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for the delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of the transactions tax imposed by this Ordinance shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

4.69.090. Accountability Measures.

Proceeds derived from the levy shall be distributed to the County of Los Angeles and all cities in Los Angeles County, as prescribed under Section 4.69.050. The Auditor-Controller of the County of Los Angeles shall create an account into which the proceeds from the special tax received from the State Board of Equalization shall be

deposited. For funds received in fiscal year 2004-05, each entity shall certify that the funds were used for public safety and homeland security purposes. Each entity authorized to receive an allocation of funds from this Ordinance shall annually adopt, in a public meeting, an accounting of the use of funds received as a result of this levy, and of funds held in reserve. Funds held in reserve shall be identified by the County fiscal year period in which they were received. This report shall be filed no later than November 30 of each year with the Auditor-Controller of the County. The Auditor-Controller shall in turn file a report with the County Board of Supervisors, stating the amount of funds collected and expended pursuant to this measure. This report shall be filed by January 1 following the first full fiscal year for which proceeds from this tax were allocated, and every January 1 thereafter so long as this tax continues to be levied.

An Oversight Committee consisting of the President of the Los Angeles County Police Chiefs Association; the Sheriff of Los Angeles County; a municipal finance director and two city managers representing independent cities appointed by the League of California Cities, Los Angeles Division; two city managers appointed by the California Contract Cities Association; a representative of the Los Angeles Area Fire Chiefs Association; the Long Beach City Manager; an appointee of both the Mayor of the City of Los Angeles; and Chairman of the Board of Supervisors shall be constituted. The role of the Oversight Committee shall be to review the annual report from the Auditor-Controller stating the amount of funds collected pursuant to this levy, to review the distribution of funds pursuant to the terms of the ordinance, and to report thereon annually to the Board of Supervisors. The Oversight Committee shall annually report

thereon to the Board of Supervisors. The County Board of Supervisors shall consult with the Oversight Committee prior to addressing the suspension of this levy for the purpose of considering the impact or ramifications that could result from suspension. The Auditor-Controller shall prescribe suitable procedures for the annual report. At the direction of the County Board of Supervisors, the Auditor-Controller may audit the information provided by any public entity receiving funds from this levy, to determine compliance with this Ordinance.

4.69.100. Amendment.

This chapter may be amended only if the amendment is approved by at least a four-fifths vote of the board of supervisors and only if the board of supervisors finds that the amendment is needed to address an administrative or procedural question so as to further the purposes of this chapter.

4.69.110. Severability.

If any provision of this chapter, or its application to any person, entity or circumstance, is held invalid, the remainder of this chapter to the extent it can be given effect, or the application of such provision to persons, entities, or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this chapter are severable.

4.69.120. Effective and Operative Dates; Suspension of the Levy.

This ordinance shall take effect when approved by a two-thirds vote of the qualified voters of the County voting in an election on the issue. The ordinance will become operative on the first day of the first calendar quarter commencing more than

110 days after the Ordinance takes effect. The Board of Supervisors may, upon approval by a 2/3rds vote of all members, and after consulting the Oversight Committee, suspend the levy of this tax any time following the 2012-2013 fiscal year, however any such suspension shall not take effect sooner than three years after the Board's action. The levy once suspended may only be reinstated by a two-thirds vote of the Board of Supervisors.

SECTION 4.

The votes cast for and against the Proposition shall be separately counted and if the Proposition receives the required number of votes, to wit: two-thirds of the votes of the qualified electors voting on the Proposition, the special tax in the amounts and for the purposes stated herein shall be effective and levied by the County.

SECTION 5.

All qualified voters of the County residing within the cities and unincorporated area of the County shall be permitted to vote in the election to be held as nearly as practicable in conformity with the Elections Code of the State of California.